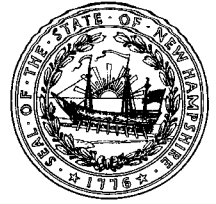




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

**CORRECTED LETTER OF DEFICIENCY
WET 06-050**

June 21, 2006

Robb N. & Judith M. Hamilton
49 Berry Road
Loudon, NH 03307

Board of Selectman
Town of Loudon
PO Box 7837
Loudon, NH 03301

RE: File #2005-2288, 49 Berry Road, Loudon

Dear Messrs:

This Corrected Letter of Deficiency ("LOD") is issued by the Department of Environmental Services, Wetlands Bureau to Robb N. and Judith M. Hamilton and the Town of Loudon. This Corrected LOD includes the following amendments:

1. The original LOD was incorrectly dated as May 26, 2005, where as the actual date the LOD was issued was on May 26, 2006. The deadlines of the LOD have been changed to reflect the actual date the LOD was issued.
2. The "path/ROW" between Lots 30 and 40, referred to in the original LOD, is not a right of way ("ROW"). The property is referenced on the Town of Loudon Tax Map 58 as Lot 49 and is owned by and used as an access to the lake by Paulene Touzin.

In all other respects, the LOD remains in effect.

On September 16, 2005 and on April 12, 2006, personnel from the Department of Environmental Services ("DES") conducted inspections of Berry Road and of the above referenced property, more specifically referenced on Town of Loudon Tax Map 58 as Lot 31 (the "Property"). The purpose of the inspections was to determine compliance with RSA 482-A and NH Code of Admin. Rules Wt 100-800.

During the inspection the following deficiencies were documented:

1. A newly constructed garage on the Property was acting as a barrier to the stormwater flowing down the driveway/ROW from the properties above. Instead of flowing into the forested area behind the garage, the water was forced to flow in front of the structure and down the steep ROW leading to Berry Road.

2. Soils adjacent to the ROW were unstable/poorly vegetated.
3. Rip-rap swales had been installed along the ROW, but were clogged and ineffective.
4. Materials from the ROW washed downhill into a road side swale and a recently installed catch basin. The catch basin was filled with sediment.
5. The sediment was further carried through the culvert under Berry Road and deposited along an access, more specifically Lot 49, leading down to Clough Pond. Sedimentation was apparent in an approximate 30' x 10' section of Clough Pond at the bottom of the access/Lot 49.
6. As a result of poor ditch work along Berry Road, a portion of the town road ended up along the access/Lot 49 and in Clough Pond as well.

In response, you are requested to take the following actions:

1. Within 35 days of the actual date of the original Letter of Deficiency, more specifically May 26, 2006, submit a Sediment and Erosion Control Plan prepared and stamped by a certified engineer to DES for review and approval. The plan should address stormwater management controls and/or erosion and sediment controls to be implemented to minimize the sediment load entering the culvert running under Berry Road, near the bottom of the Hamiltons' driveway. The plan should also incorporate provisions to prevent scouring and further sedimentation down the access/Lot 49, leading to Clough Pond.

The Sediment and Erosion Control Plan should specifically include the following:

- a. A basic site plan drawn to scale including the following:
 - i. Boundary of the drainage area contributing run-off to the culvert;
 - ii. Property lines;
 - iii. Existing and proposed topography (If not using topography, please use arrows to indicated direction of grades and use ratios to show slopes steeper than 3:1);
 - iv. Direction of existing and proposed drainage with indication of sheet flow or directional flow through swales etc. (If not using standard topography use arrows to indicate direction of flow.);
 - v. Surface waters and wetlands on site, if any, as well as surface waters and wetlands receiving run-off from the site;
 - vi. Existing land use (ex. Buildings, paved/gravel areas, tree line, grassed areas etc.);
 - vii. Impacts to surface waters and wetlands as a result of sedimentation;

- viii. Proposed temporary erosion and sediment controls (ex. silt fence, temporary seeding and mulching);
- ix. Proposed and existing permanent erosion and sediment controls (ex. permanent seeding, storm drain inlet protection, and drainage swales); and
- x. Proposed and existing stormwater management controls (if applicable) (ex. storm water detention pond/pool).

b. A detailed description of:

- i. The proposed temporary and permanent erosion and sediment controls and storm water management controls including information regarding size, materials, and methods of construction;
- ii. The construction sequence for the implementation of the Sediment and Erosion Control Plan. The sequence should also address removal of sediment from Clough Pond after permitted and maintenance of existing erosion and sedimentation controls.
- iii. The maintenance plan for all control measures including a schedule for long-term inspections.

2. Implement the Erosion and Sediment Control Plan only after receiving written approval and as conditioned by DES.

3. Within 30 days of the actual date of the original Letter of Deficiency, more specifically May 26, 2006, submit a Standard Dredge & Fill application to DES for the removal of sediment deposited in Clough Pond at the bottom of the access/Lot 49. Included with the application should be a letter of consent signed by the owner of Lot 49 to do work on his/her property.

4. Remove the sediment from Clough Pond only after receiving a permit from and as conditioned by DES.

RSA 482-A, the New Hampshire Wetlands law, was enacted to protect and preserve wetlands and surface waters from unregulated despoliation. Prior to dredging, filling, or construction in and adjacent to wetlands or surface waters, an individual is required to obtain a permit. If work is done without a permit, this is considered a violation of RSA 482-A. Failure to respond to this Letter of Deficiency in a timely and complete manner may be construed as noncompliance by the receiving party.

DES personnel may conduct another inspection at a later date to determine whether you have come into and are maintaining full compliance with the applicable statute and rules.

Issuance of this letter shall not preclude further enforcement by DES. Failure to comply with RSA 482-A will result in enforcement by DES, including but not limited to the issuance of fines, administrative orders, or referral to the New Hampshire Office of the Attorney General for


prosecution of civil or criminal penalties. If an order is issued to you, it may also be recorded with the Registry of Deeds as an encumbrance against your property.

All documents submitted in response to this Letter of Deficiency should be addressed as follows:

Stacey Herbold, Compliance Specialist
Wetlands Bureau
Department of Environmental Services
29 Hazen Drive
PO Box 95
Concord, NH 03302-0095

Should you have any questions regarding this letter, or wish to arrange a meeting, please contact Stacey Herbold at (603) 271-4062.

Sincerely,



Collis G. Adams, CWS
Administrator
Wetlands Bureau

CERTIFIED MAIL 7005 1820 0005 8306 0986

cc: Rene Pelletier, Manager, Land Resources Management Program
Gretchen R. Hamel, Administrator, DES Legal Unit
Loudon Conservation Commission
Paulene Touzin
David Rice, Loudon Road Agent
Judy Houston, Louis & Berger Group, Inc.
USACOE